

**SUPREME COURT MINUTES
WEDNESDAY, MARCH 3, 2004
SAN FRANCISCO, CALIFORNIA**

S121400

H024214 Sixth Appellate District

VARIAN MEDICAL SYSTEMS v. DELFINO

Petition for review granted; issues limited

The issue to be briefed and argued is limited to the following: Does an appeal from the denial of a special motion to strike under the anti-SLAPP statute (Code Civ. Proc., § 425.16) effect an automatic stay of the trial court proceedings?

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S121568

C034110 Third Appellate District

MCCLUNG v. EMPLOYMENT DEVELOPMENT
DEPARTMENT

Petition for review granted; issues limited

The issue to be briefed and argued is limited to the following: Does Government Code section 12940, subdivision (j) (3), apply retroactively, despite our decision in *Carrisales v. Department of Corrections* (1999) 21 Cal.4th 1132?

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S121724D040475 Fourth Appellate District,
Division One

PEOPLE v. COLE (PEARLE VISION)

Petition for review granted; issues limited

The issue to be briefed and argued is limited to the following issue: Does the Knox-Keene Health Care Service Plan Act of 1975 (Health & Saf. Code, § 1340 et seq.) exempt approved providers under the Act from the limitations that Business and Professions Code sections 655 and 2556 otherwise impose on business and financial relationships between dispensing opticians and optometrists or ophthalmologists?

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S122254

B165252 Second Appellate District,
Division Six

BENSON, MARRIAGE OF
Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, and Moreno, JJ.

S121552

B161773 Second Appellate District,
Division Six

MARTINEZ v. COMBS
Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *Reynolds v. Bement*, S115823 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S121712

B163472 Second Appellate District,
Division Five

PEOPLE v. JOHNSON
Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Mosby*, S104862 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S121911

B161037 Second Appellate District,
Division Three

ARAKELIAN v. CONQUEST
Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *Reynolds v. Bement*, S115823 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order

of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno, JJ.

S122889

B162065 Second Appellate District,
Division Four

KRAUT & BODEN, MARRIAGE OF

Review granted on court's own motion; transferred to
CA 2/4

At the request of the Court of Appeal, review is GRANTED on the court's own motion. The cause is transferred to the Court of Appeal, Second Appellate District, Division Four, with directions to vacate its opinion and to reconsider the matter as it sees fit.

Votes: George, C.J., Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno, JJ.

S121102

B161049 Second Appellate District,
Division Six

**FRANKLIN v. CALIF STATE PERSONNEL BOARD
(STATE DEPT. OF YOUTH AUTHORITY)**
Petition for review denied

S121207

D041885 Fourth Appellate District,
Division One

GESSE (MARK) ON H.C.
Petition for review denied

S121318

A099293 First Appellate District,
A099191 Division Four

MCCLENDON (BARNEY) ON H.C.
Petition for review denied

Brown, J., was recused and did not participate.

S121324

G032916 Fourth Appellate District,
Division Three

WATSON v. WCAB (CITY OF BREA)
Petition for review denied

S121361

H026663 Sixth Appellate District

CAPOGRECO v. S.C.; PEOPLE
Petition for review denied

S121418

C041197 Third Appellate District

HEALTH NET OF CAL v. DEPT OF HEALTH SVCS
Petition for review & depublication request denied**S121448**E033000 Fourth Appellate District,
Division TwoALLESANDRO PLAZA v. CHAKMAKCHI
(MORENO VALLEY FUN BOWL)
Petition for review denied**S121536**A095527 First Appellate District,
Division ThreePEOPLE v. JENKINS
Petitions for review denied**S121547**A102615 First Appellate District,
Division FourPEOPLE v. VICK
Petition for review denied**S121612**H025428 Sixth Appellate District
H025406
H025513
H025569PEOPLE v. S.C. (ANDRADES)
Petitions for review deniedKennard, J., is of the opinion the petition should
be granted.**S121619**A104130 First Appellate District,
Division OneEVERGREEN CREDIT REPORTING INC. v. S.C.
(PADUANO)
Petition for review and application for stay denied**S121687**

H024986 Sixth Appellate District

C. (ANGELIQUE), IN RE
Petition for review deniedKennard, J., is of the opinion the petition should
be granted.**S121703**

C041013 Third Appellate District

PEOPLE v. MALDONADO
Petition for review denied**S121707**A100627 First Appellate District,
Division ThreeWOODSON v. LEGACY PARTNERS 2323 L.P.
Petition for review denied

S121736

H024455 Sixth Appellate District

PEOPLE v. KIBLER

Petitions for review denied

S121743B159992 Second Appellate District,
Division TwoHOMEOWNERS TO PROTECT EDUC/ENVIRON v.
MONTEBELLO UNIFIED SCHOOL DIST.

Petition for review denied

S121746E031553 Fourth Appellate District,
E033364 Division Two

PEOPLE v. SELF

Petition for review denied

S121774G032018 Fourth Appellate District,
Division Three

SANCHES v. S.C. (PEOPLE)

Petition for review denied

S121792B166269 Second Appellate District,
Division Six

PEOPLE v. DALESSIO

Petition for review denied

S121821B163966 Second Appellate District,
Division Four

PEOPLE v. JOHNSTON

Petition for review denied

S121841A100212 First Appellate District,
Division Five

PEOPLE v. NEM

Petition for review denied

S121875D041731 Fourth Appellate District,
D042607 Division One

M. (RACHEL), IN RE

Petitions for review denied

S121928

H024801 Sixth Appellate District

PEOPLE v. HUYNH

Petitions for review denied

S121950A104054 First Appellate District,
Division Five

M. (ASHLEY), IN RE

Petitions for review denied

S121973

B156444 Second Appellate District,
Division Two

ALBILLO v. INTERMODAL CONTAINER
Petitions for review & publication requests denied

Request for judicial notice granted.

Brown, J., is of the opinion the petition should
be granted.

S121976

B164502 Second Appellate District,
Division Seven

C. (ALEXANDER), IN RE
Petition for review & publication request denied

S121983

H025932 Sixth Appellate District

PARK v. STATE BAR OF CALIFORNIA
Petition for review denied

S121990

F040959 Fifth Appellate District

BARBOUR v. SIERRA SKY PARK PROPERTY
OWNERS ASSOC.
Petition for review & publication request denied

S122006

A099494 First Appellate District,
Division Three

SMITH v. CITIBANK OF CALIFORNIA
Petition for review denied

S122048

H024137 Sixth Appellate District

PEOPLE v. WILRIDGE
Petition for review denied

S122051

A098104 First Appellate District,
Division Two

ESCAMILLA v. REGENTS UNIVERSITY OF CALIF
Petition for review denied

S122057

C043052 Third Appellate District

BLACKHURST v. PRUNER
Petition for review denied

S122081

B162231 Second Appellate District,
Division Five

CLAYPOOL v. ROGERS
Petition for review denied

S122101

D040393 Fourth Appellate District,

JENNINGS v. PALOMAR POMERADO HEALTH
Petition for review & depublication request denied

Chin, J., was recused and did not participate.

S122117B162053 Second Appellate District,
Division FiveSAN VICENTE VILLAS HOMEOWNERS v. COHEN
Petition for review & publication request denied**S122119**B160960 Second Appellate District,
Division EightSPINNER v. COOPER
Petition for review denied**S122133**E033354 Fourth Appellate District,
E034252 Division TwoE. (S.), IN RE
Petition for review denied**S122141**

C044429 Third Appellate District

I. (A.), IN RE
Petition for review denied**S122163**D041120 Fourth Appellate District,
Division OnePEOPLE v. WILSON
Petition for review denied**S122164**B162163 Second Appellate District,
Division TwoPEOPLE v. TELLEZ
Petition for review denied**S122168**B155948 Second Appellate District,
Division SixPEOPLE v. CERVANTES
Petitions for review denied**S122175**

H024999 Sixth Appellate District

PEOPLE v. TIANO
Petition for review denied**S122177**

C041759 Third Appellate District

PEOPLE v. FOWLER
Petition for review denied

S122179

C039268 Third Appellate District

PEOPLE v. GILCHRIST

Petition for review denied

S122182B159985 Second Appellate District,
Division Seven

PEOPLE v. SUTHERLAND

Petition for review denied

S122184A103708 First Appellate District,
Division Five

PEOPLE v. LOYOLA

Petition for review denied

S122186B164691 Second Appellate District,
Division Four

PEOPLE v. MACHADO

Petition for review denied

S122209B165159 Second Appellate District,
Division Seven

PEOPLE v. MARTINEZ

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S122211B161568 Second Appellate District,
Division Eight

PEOPLE v. DUARTE

Petition for review denied

S122212B164059 Second Appellate District,
Division Five

PEOPLE v. DUVALL

Petition for review denied

S122213

H025249 Sixth Appellate District

PEOPLE v. SOTELO

Petition for review denied

S122219

F040137 Fifth Appellate District

PEOPLE v. CONTRERAS

Petition for review denied

S122222B160455 Second Appellate District,
Division Five

SCHMIDT v. SPAHN

Petition for review denied

S122224

B164513 Second Appellate District,
Division Four

PEOPLE v. CHRISTENSEN

Petition for review denied

S122227

B165275 Second Appellate District,
Division Six

PEOPLE v. BRETADO

Petition for review denied

S122228

H025275 Sixth Appellate District

PEOPLE v. LEACH

Petition for review denied

S122230

B166496 Second Appellate District,
Division Seven

BARILE v. CAGE-BARILE

Petition for review denied

S122232

A101035 First Appellate District,
Division One

PEOPLE v. GONZALEZ

Petition for review denied

S122236

D039426 Fourth Appellate District,
D041035 Division One

PEOPLE v. CANTERA

Petition for review denied

S122246

D040653 Fourth Appellate District,
Division One

PEOPLE v. WESLEY

Petition for review denied

S122247

D043324 Fourth Appellate District,
Division One

SANDNESS v. WCAB (HENKELS & MCCOY)

Petition for review denied

S122253

D041793 Fourth Appellate District,
Division One

KLAT v. REGENTS OF THE UNIVERSITY OF
CALIFORNIA SAN DIEGO

Petition for review denied

S122257

H025003 Sixth Appellate District
H025598

PEOPLE v. NGUYEN

Petition for review denied

S122260

A099954 First Appellate District,
Division Four

PEOPLE v. VADEN

Petition for review denied

S122262

B160221 Second Appellate District,
Division Four

PEOPLE v. RODRIGUEZ

Petition for review denied

S122263

B157655 Second Appellate District,
Division Eight

PEOPLE v. SMITH

Petition for review denied

S122276

C042461 Third Appellate District

PEOPLE v. CAZARES

Petition for review denied

S122278

C045760 Third Appellate District

SENATOR v. ARK

Petition for review denied

Request for judicial notice is denied.

S122287

A104842 First Appellate District,
Division One

SAN MATEO COUNTY TRANSIT DISTRICT v.
WCAB; BUMAGAT

Petition for review denied

S122288

G031228 Fourth Appellate District,
Division Three

K. (CARLOS), IN RE

Petition for review denied

S122290

B168694 Second Appellate District,
B152064 Division One

PEOPLE v. CHESSMORE

Petition for review denied

S122291

D040301 Fourth Appellate District,
Division One

PEOPLE v. FLORES

Petition for review denied

S122292

B162018 Second Appellate District,
Division Five

ROBERTS v. ROBERTS

Petition for review denied

S122293

B167959 Second Appellate District,
Division Six

RUSSELL, MARRIAGE OF
Petition for review denied

S122294

B166789 Second Appellate District,
Division Four

PEOPLE v. BOBINO
Petition for review denied

S122295

B163217 Second Appellate District,
Division Four

PEOPLE v. ESTRADA
Petition for review denied

S122296

D041454 Fourth Appellate District,
Division One

PEOPLE v. PADILLA
Petition for review denied

S122303

E034976 Fourth Appellate District,
Division Two

DAVIS v. S.C. (PEOPLE)
Petition for review denied

S122321

G033316 Fourth Appellate District,
Division Three

LUCKETT v. GOLD
Petition for review denied

S122322

F042283 Fifth Appellate District

SMITH v. S.C. (CAL DEPT OF CORRECTIONS)
Petition for review denied

Baxter, J., was recused and did not participate.

S122323

B163697 Second Appellate District,
Division Four

PEOPLE v. YANEZ
Petition for review denied

S122325

B171455 Second Appellate District,
Division Five

SMITHEY v. WCAB (ELLIOTT)
Petition for review denied

S122331

F041168 Fifth Appellate District

PEOPLE v. HILL
Petition for review denied

S122332

A097330 First Appellate District,
Division Five

PEOPLE v. ZABADI

Petition for review denied

S122335

F040129 Fifth Appellate District

PEOPLE v. AVINA

Petition for review denied

S122338

B163109 Second Appellate District,
Division Six

PEOPLE v. ROBERGE

Petition for review denied

S122349

A104474 First Appellate District,
Division Three

LAZIC v. WCAB (BOSNA CONSTRUCTION)

Petition for review denied

S122365

A104879 First Appellate District,
Division Four

EDEN HOUSING MGMT v. S.C. (WILKINSON)

Petition for review denied

S122370

B165185 Second Appellate District,
Division Six

PEOPLE v. WATSON

Petition for review denied

S122466

E034172 Fourth Appellate District,
Division Two

R. (MAXWELL), IN RE

Petition for review denied

S122554

D041077 Fourth Appellate District,
Division One

WHISPERING RIDGE HOMEOWNERS v.
CHAUDRY

Petition for review and application for stay denied

S122680

H027013 Sixth Appellate District

SPIELBAUER v. S.C. (PEOPLE)

Petition for review and application for stay denied

S122838

B172429 Second Appellate District,
Division Five

STEWART v. S.C. (PEOPLE)

Petition for review and application for stay denied

S122902B172596 Second Appellate District,
Division Five

EWING v. S.C. (PEOPLE)

Petition for review and application for stay denied

S122913

DANSER v. COMM ON JUDICIAL PERFORMANCE

Petition for writ of mandate/prohibition & stay denied

S122970

C046130 Third Appellate District

JORELL G. v. S.C. (PEOPLE)

Petition for review and application for stay denied

S115044

GOMEZ (ROGER) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304)**S115737**

ATKINS (SUSAN) ON H.C.

Petition for writ of habeas corpus denied

S116261

VAUGHN (HERBERT M.) ON H.C.

Petition for writ of habeas corpus denied

S116503

WAKEFIELD (JULIAN R.) ON H.C.

Petition for writ of habeas corpus denied

S116505

BRAZIL (DAVON D.) ON H.C.

Petition for writ of habeas corpus denied

S116506

SANABRIA (ABRAHAM) ON H.C.

Petition for writ of habeas corpus denied

S116579

FOSTER (KENNETH) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116580

DIXON (MICHAEL R.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Miller* (1941) 17 Cal.2d 734; *In re Lindley* (1947) 29 Cal.2d 709.)

S116597

SMITH (DARREL L.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116599

BARKER (DON D.) ON H.C.

Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S116627

SAVAGE (WALTER M.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116631

DURAN (ANDREW M.) ON H.C.

Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S116640

LAMBERT (DREW DAVID) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

S116673

DIXON (LARRY) ON H.C.

Petition for writ of habeas corpus denied

S116839

TAYLOR (RALPH A.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116842

LELAND (RHONDA LEE) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116846

THOMPSON (JOHN ALLEN) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116894

HOLMES (EDDIE LEE) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Waltreus* (1965) 62 Cal.2d 218.)

S116905

GARCIA (LUIS) ON H.C.

Petition for writ of habeas corpus denied

S116906

GUZMAN (STEVEN A.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750.)

S116907

MCKINEY (ALONSO) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Dexter* (1979) 25 Cal.3d 921; *People v. Hill* (1973) 9 Cal.3d 784, 786-787.)

S116909

SLEDGE (DENISE S.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S116911

KEITH (JOSEPH A.) ON H.C.
Petition for writ of habeas corpus denied

S116943

KLEIN (JAMES) ON H.C.
Petition for writ of habeas corpus denied

S116954

BURGOS (TONY MORAN) ON H.C.
Petition for writ of habeas corpus denied

S116990

PALK (DUKESHANE T.) ON H.C.
Petition for writ of habeas corpus denied

S117001

ISAAC (GUADALUPE) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Swain (1949) 34 Cal.2d 300, 304; *People*
v. Duvall (1995) 9 Cal.4th 464, 474.)

S117003

MCCLELLAND (CALEB L.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Waltreus (1965) 62 Cal.2d 218; *In re*
Dixon (1953) 41 Cal.2d 756.)

S117015

PACE-WHITE (KIM MARIE) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Waltreus* (1965) 62 Cal.2d 218.)

S117017

DIAZ (ANGEL A.) ON H.C.
Petition for writ of habeas corpus denied

S117019

WILLARD (CHARLES R.) ON H.C.
Petition for writ of habeas corpus denied

S117020

SHEPPARD (JEREMIAH) ON H.C.
Petition for writ of habeas corpus denied

S117053

HERNANDEZ (MANUEL) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750.)

S117055

MOORE (JOHNIE L.) ON H.C.

Petition for writ of habeas corpus denied

S117056

LOGAN (DEWAYNE N.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S117061

CLEMONS (CALVIN) ON H.C.

Petition for writ of habeas corpus denied

S117068

HILL (BRIAN T.) ON H.C.

Petition for writ of habeas corpus denied

S117294

EVANS (ALBERT) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Waltreus* (1965) 62 Cal.2d 218; *In re Miller* (1941) 17 Cal.2d 734.

S117338

ARRIAGA (JORGE) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Dixon* (1953) 41 Cal.2d 756.)

S117340

BROGLIA (ROBERT) ON H.C.

Petition for writ of habeas corpus denied

S117611

WILLARD (CHARLES) ON H.C.

Petition for writ of habeas corpus denied

S119343

MORGAN (JONATHAN) ON H.C.
Petition for writ of habeas corpus denied

S119871

PERRY (RICHARD L.) ON H.C.
Petition for writ of habeas corpus denied

S120102

CALOC (GARY) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Dexter* (1979) 25 Cal.3d 921.)

S121734

SMITH (DARREL L.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Miller* (1941) 17 Cal.2d 734.)

S122302

CASTRILLON (LUIS) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Azurin* (2001) 87 Cal.App.4th 20; *In re Wessley W.* (1981) 125 Cal.App.3d 240, 246.)

S122390

WELCH (EUGENE E.) ON H.C.
Petition for writ of habeas corpus denied

S119959

B165646 Second Appellate District,
Division One

CONSUMER CAUSE v. NATIONAL VISION
Depublication ordered

The Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above entitled appeal filed September 3, 2003, which appears at 111 Cal.App.4th 1069. (Cal. Const., art. VI, section 14; rule 976, Cal. Rules of Court.)

S121362

C044566 Third Appellate District

G. (MICHAEL) v. S.C. (DEPT. OF HEALTH AND
Publication request denied (case closed)

S121769

A101661 First Appellate District,
Division One

HOOVER v. SAENZ, as DIRECTOR, etc.
Publication request denied (case closed)

S121948

E032985 Fourth Appellate District,
Division Two

PEOPLE v. WATKINS
Publication request denied (case closed)

S122002

B167577 Second Appellate District,
Division Five

O. (JOSHUA), IN RE
Publication request denied (case closed)

S119750

D040278 Fourth Appellate District,
Division One

MORRIS v. DE LA TORRE
Extension of time granted

Appellant's time to serve and file the answer
brief on the merits is extended to and including
April 12, 2004.

S035367

PEOPLE v. HARRISON (CEDRIC)
Motion denied

Appellant's letter, filed on February 17, 2004,
treated as a motion to relieve appointed habeas
corpus counsel and appoint new habeas corpus
counsel in its place, is denied.

S120238

H023584 Sixth Appellate District

PEOPLE v. MODIRI
Order filed

In the above-captioned matter, counsel for
defendant has requested clarification of the
issues on review. The issues include, and the
parties are directed to address, whether the so-
called "group beating exception" (see *People v.*
Corona (1989) 213 Cal.App.3d 589), as
embodied in CALJIC No. 17.20, to the
requirement of a finding of personal infliction of
great bodily injury for purposes of enhancing a
present or future sentence (see Pen. Code,
§§ 667, subds. (a), (c), (d)(1), 1170.12, subds.

(a), (b)(1), 1192.7, subd. (c)(8), 12022.7) is inconsistent with *People v. Cole* (1982) 31 Cal.3d 568. (Cal. Rules of Court, rules 29(a)(1), (b)(1), (2).)

S079656

BACIGALUPO (MIGUEL A.) ON H.C.
Referee appointed

THE COURT:

Based on the record in this matter and good cause appearing:

The Honorable Richard Arnason (Ret.), Judge of the Superior Court of California, County of Contra Costa, is appointed to sit as a referee in this proceeding. He is to take evidence and make findings of fact on the following questions regarding the case of *People v. Miguel Angel Bacigalupo* (Santa Clara Superior Court No. 93351; Judge Thomas C. Hastings):

1. What information did the prosecution obtain before or during petitioner's capital trial regarding a possible connection between one Jose Luis Angarita and the murders of Orestes and Jose Luis Guerrero? What, if any, of this information was given to the defense?

2. Did the confidential informant who testified at an ex parte hearing on September 6, 1985, tell a district attorney investigator or other member of law enforcement connected with this case that the informant had witnessed petitioner's meeting with Angarita and others a day or so before the murders? If so, did the prosecution convey this information to the defense? If the confidential informant told a district attorney investigator or other member of law enforcement about a meeting between petitioner and Angarita, was this information reliable?

3. Did the prosecution from any source, including those specified below, obtain any information that it did not provide to the defense that would have supported petitioner's claim to the police that he had killed Orestes and Jose Luis Guerrero acting under the Colombian

Mafia's death threats to himself or his family?

(a) Interviews of Ronnie Nance or Steve Price?

(b) Interviews of the confidential informant?

(c) In connection with federal prosecutions for which the confidential informant furnished evidence?

4. If the prosecution withheld from the defense information (a) about a possible connection between Jose Luis Angarita and the murders of Orestes and Jose Luis Guerrero; or (b) about a meeting between petitioner, Angarita and others a day or so before the killings; or (c) that would have supported petitioner's claim to police that he killed the Guerrero brothers acting under death threats to him and his family, what penalty phase evidence not otherwise known or available to the defense at the time of trial would have come to light had the withheld information been disclosed?

5. Did a district attorney investigator or other member of law enforcement connected with this case instruct the confidential informant to withhold information at the ex parte hearing held on September 6, 1985? If so, what information, if any, did the confidential informant withhold at that hearing? Did the district attorney investigator testify truthfully at the hearing?

6. Is it likely that disclosure of the confidential informant's identity to the defense would have led to evidence not otherwise known or available to the defense at the time of trial that would have supported petitioner's claim to have acted under death threats from the Colombian Mafia? If so, what is that evidence?

7. At the time of trial, what information was known to the prosecution that would have supported a theory that petitioner was hired to commit the murders or that otherwise could have been used to impeach a penalty phase case in mitigation based on petitioner's having acted under duress?

Any requests for discovery in this matter should be addressed to the referee.

Bar Misc. 4186

IN THE MATTER OF THE APPLICATION OF THE
COMMITTEE OF BAR EXAMINERS OF THE
STATE BAR OF CALIFORNIA FOR ADMISSION
OF ATTORNEYS

The written motion of the Committee of Bar
Examiners that the following named
applicants, who have fulfilled the
requirements for admission to practice law
in the State of California, be admitted to the
practice of law in this state is hereby
granted, with permission to the applicants to
take the oath before a competent officer at
another time and place:
(LIST OF NAMES ATTACHED TO
ORIGINAL ORDER)

